

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

KINERA LOVE,  
Plaintiff,

v.

DOLLAR GENERAL CORPORATION,  
d/b/a DOLGENCORP,  
Defendant.

)  
)  
) CIVIL ACTION NO.:  
) 03-06cv1147-MHT-SRW  
)  
)  
)  
)

**PLAINTIFF'S REPLY BRIEF**  
**TO DEFENDANT'S OBJECTION AND MOTION TO STRIKE**

The Plaintiff, by and through her attorney of record, files this Reply Brief in response to the Defendant's Objection and Motion to Strike. The Plaintiff respectfully request that this Honorable Court overrule the Defendant's objections and deny its motion to strike. As grounds, the Plaintiff offers the following for the Court's consideration:

**PLAINTIFF'S AFFIDAVIT**

The Plaintiff contends that her Affidavit is not conclusory and does not contradict her prior deposition testimony. It, in fact, supports her deposition testimony. The evidence clearly shows that the Plaintiff reported that she was being discriminated against when she was not promoted to the position of assistant manager at Dolgencorp. Additional evidence of that fact is the telephone record of the call reporting the initial

complaint, as well as the follow-up investigation of the complaint of discrimination.<sup>1</sup>

The Plaintiff's testimony consistently shows she was terminated without knowledge of her suspension. In addition, it is clear to the Plaintiff that the Defendant used the alleged accusations against her to terminate her because the evidence shows that two different Personnel Action Forms were submitted to affect the Plaintiff's termination (**See attached Exhibits B and C**). In **Exhibit C**, the reason for the Plaintiff's discharge is shown to be "mishandling or failure to protect company funds or assets (cash shortages, borrowing money from Company, etc.). The Plaintiff was never informed of this and was never allowed the opportunity to face her accusers. This is not just a conclusion drawn by the Plaintiff. The evidence speaks for itself. **Id.**

The Plaintiff contends that the best evidence of her statements and of the statements of her key witness, Tiffany Cross, is held by the Defendants. Once this Court compels the Defendants to respond to the Plaintiff's discovery request, she will be in a better position to respond to the Defendant's Objection and Motion to Strike.

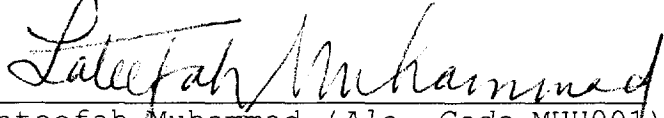
WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that this Honorable Court will sustain the Defendant's objection and

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<sup>1</sup> Here, if allowed to supplement this response with the requested discovery, the Plaintiff will insert an exhibit of the company's telephone record of the date and time of the complaint made by the Plaintiff which will show the actual telephone number called and the date(s) on which the complaint was made. The telephone number purports to concur with the one that is displayed

deny its request to strike her Affidavit, particularly until she is allowed the opportunity to fully response with the supporting evidence on the additional issues raised in their request.

Respectfully submitted,

  
Lateefah Muhammad (Ala. Code MUH001)  
ATTORNEY FOR PLAINTIFF

Lateefah Muhammad, Attorney At Law, P.C.  
Post Office Box 1096  
Tuskegee, Alabama 36087  
(334) 727-1997 telephone and facsimile  
[lateefahmuhammad@aol.com](mailto:lateefahmuhammad@aol.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Plaintiff's Reply Brief to the Defendant's Objection to and Motion to Strike to Ryan Aday, Esquire, attorney for Defendant, by sending it to OGLETREE DEAKINS, P.C., One Federal Place, Suite 1000, 1819 Fifth Avenue North, Birmingham, Alabama 35203, in the United States Mail, postage prepaid on this 27<sup>th</sup> day of February, 2008.

  
Lateefah Muhammad

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on the paycheck stub of each employee, indicating that it is the number to call to report complaints of discrimination (see attached as Exhibit A).

# EXHIBIT A



Cost Center      Type      033813-033813  
 06519      S  
 Att: Payroll Department  
 DOLGENCORP, INC  
 c/o DOLLAR GENERAL CORPORATION  
 100 MISSION RIDGE  
 GOODLETTSVILLE, TN 37072-2171

Taxable Marital Status: S  
 Social Security Number: XXXXXXXXXX  
 Exemptions/Allowances  
     Federal: 01  
     State: 00  
     Local:

## Earnings Statement

Page 001 of 001  
 Period Ending: 04/29/2005  
 Check Date: 05/06/2005  
 Check Number: 0071639994  
 Batch Number: 000000327

**KINERA LOVE**  
**409 A TOOMER COURT APT 409 A**  
**OPELIKA, AL 36830**

Earnings	Rate	Hours	This period	Year-to-date
REGULAR	5.35	39.25	209.99	852.01
<b>Gross Pay</b>			<b>\$209.99</b>	<b>852.01</b>

Deductions	Statutory	This period	Year-to-date
FICA EE		13.01	52.82
MEDICARE		3.04	12.35
FED W/H		9.75	40.20
AL W/H		7.32	29.82
<b>Net Pay</b>		<b>\$176.87</b>	

Other Benefits and Information	This period	Total to date

### Message:

CALL 1-888-237-4114 TO REPORT  
 DISCRIMINATION

# EXHIBIT B

(See reverse side for complete instructions.)



# Dollar General Personnel Action Form

PLEASE PRINT IN BLACK INK, AND ONLY COMPLETE SECTIONS THAT ARE CHANGING.

Social Security Number: 416-08-6715  
(required for processing)Employee Name: Kinera LoveEffective Date of Change: 10/24/05Store Stamp/  
Dept.  
NameDollar General Store # 8605  
1655 S College St  
Auburn, AL 36832-6699

## ☐ Personal Changes

New Marital Status: ☐ Married ☐ Single

Name Change: (must attach a copy of Social Security Card showing the new legal name - required for processing)

Previous Name: \_\_\_\_\_ New Name: \_\_\_\_\_

New Address: Street Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_ New Home Phone Number: (\_\_\_\_) \_\_\_\_\_

## ☐ Job Changes

☐ Promotion ☐ Demotion ☐ Lateral Transfer ☐ Pay IncreaseDept./Store/Cost Center: From: \_\_\_\_\_ To: \_\_\_\_\_ Rate of Pay: From: \_\_\_\_\_ To: \_\_\_\_\_  
Per hour or annual salary Per hour or annual salaryJob Code: From: \_\_\_\_\_ To: \_\_\_\_\_  
(Must change if promotion or demotion occurred)

Shift Code: From: \_\_\_\_\_ To: \_\_\_\_\_

Position/Title: From: \_\_\_\_\_ Supervisor: \_\_\_\_\_  
To: \_\_\_\_\_ Supervisor: \_\_\_\_\_Job Status: ☐ Full Time ☐ Part Time ☐ DG Temporary

## Reason for Separation or Leave of Absence

Termination Date: 10/24/05  
Last Day Worked: 10/14/05Leave Begin Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Leave End Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

### Resign

- ( ) 01 Dissatisfied with employment  
( ) 70 Failed to return to work from leave  
( ) 08 Health reasons  
( ) 04 Moved from area  
( ) 05 Personal reasons  
( ) 02 Pursue another job  
( ) 71 Resigned during investigation  
( ) 07 Retirement (see instructions on reverse side for explanation)  
( ) 03 Return to school  
( ) 08A Without notice - 3 consecutive work days, no call-no show  
( ) 08B Without notice - walked off job during scheduled work hours  
( ) 08 Without notification (comments required below)

### Discharge

(See instructions on reverse side prior to discharge.)

- ( ) 14 Excessive tardiness or absenteeism  
( ) 40 Failure to meet hiring/employment criteria (comments required below)  
( ) 41 Falsifying records  
( ) 42 Inappropriate conduct (comments required below)  
( ) 13 Insubordination (comments required below)  
( ) 43 Mishandling or failure to protect company funds or assets (cash shortages, borrowing money from Company, etc.)  
( ) 10 Not meeting performance standards  
( ) 44 Unauthorized removal or use of company property  
( ) 46 Violation of company policy/procedure (comments required below)  
( ) 47 Violation of safety rules

### Leave of Absence

#### NOTIFY HR/HRIS FOR LEAVE APPROVAL.

- ( ) 27 Extended Medical Leave  
( ) 24 Family Medical Leave (FMLA)  
( ) 20 Medical Leave (not FMLA eligible)  
( ) 22 Military Leave  
( ) 28 Pending investigation  
( ) 21 Personal Leave

#### NOTIFY RISK MANAGEMENT FOR W/C LEAVE APPROVAL.

- ( ) 23 Workers' Compensation

### Miscellaneous

- ( ) 15 Death  
( ) 16 Elimination of position  
( ) 60 Hired but never worked  
( ) 19 Lack of work  
( ) 18A Store closing - natural disaster (tornado, fire, etc.)  
( ) 18 Store closing - other  
( ) 17 Other (comments required below)

Comments: Failed to be interviewed in a store interview -  
investigation. Refused to speak with the Asset Protection  
Supervisor, on the issues that were in question.

I certify that all the information above is correct.

☒ Kinera Love  
Employee Signature Date

I certify that all the information above is correct.

☒ David R. Perry  
Manager/Supervisor Signature Date

# EXHIBIT C



(See reverse side for complete instructions.)



# Dollar General Personnel Action Form

PLEASE PRINT IN BLACK INK, AND ONLY COMPLETE SECTIONS THAT ARE CHANGING.

Social Security Number: 416-08-6715  
(required for processing)Employee Name: KINERA LOVEEffective Date of Change: 11/09/05Store  
Stamp/  
Dept.  
NameDollar General Store # 8606  
1655 S College St  
Auburn, AL 36832-6279

## ☐ Personal Changes

New Marital Status: ☐ Married ☐ Single

Name Change: (must attach a copy of Social Security Card showing the new legal name - required for processing)

Previous Name: \_\_\_\_\_

New Name: \_\_\_\_\_

New Address: Street Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

New Home Phone Number: (\_\_\_\_) \_\_\_\_\_-\_\_\_\_

## ☐ Job Changes

☐ Promotion☐ Demotion☐ Lateral Transfer☐ Pay Increase

Dept./Store/Cost Center: From: \_\_\_\_\_

To: \_\_\_\_\_

Rate of Pay: From: \_\_\_\_\_

Per hour or annual salary

To: \_\_\_\_\_

Per hour or annual salary

Job Code: From: \_\_\_\_\_

To: \_\_\_\_\_

(Must change if promotion or demotion occurred)

Shift Code: From: \_\_\_\_\_

To: \_\_\_\_\_

Position/Title: From: \_\_\_\_\_

Supervisor: \_\_\_\_\_

To: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Job Status: ☐ Full Time☐ Part Time☐ DG Temporary

## Reason for Separation or Leave of Absence

Termination Date: 11/09/05

Leave Begin Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Last Day Worked: \_\_\_\_/\_\_\_\_/\_\_\_\_

Leave End Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

### Resign

- ( ) 01 Dissatisfied with employment  
 ( ) 70 Failed to return to work from leave  
 ( ) 06 Health reasons  
 ( ) 04 Moved from area  
 ( ) 05 Personal reasons  
 ( ) 02 Pursue another job  
 ( ) 71 Resigned during investigation  
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#### NOTIFY RISK MANAGEMENT FOR W/C LEAVE APPROVAL

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### Miscellaneous

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 ( ) 16 Elimination of position  
 ( ) 60 Hired but never worked  
 ( ) 19 Lack of work  
 ( ) 18A Store closing - natural disaster (tornado, fire, etc.)  
 ( ) 18 Store closing - other  
 ( ) 17 Other (comments required below)

Comments: Fail to comply with store investigation

I certify that all the information above is correct.

☒

Employee Signature

Date

I certify that all the information above is correct.

☒

Manager/Supervisor Signature

Date